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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,813	10/28/2003	Sebastian Siethoff	112703-289	9580

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EXAMINER

MOHANDESI, JILA M

ART UNIT PAPER NUMBER

3728

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/697,813

**Applicant(s)**

SIETHOFF ET AL.

**Examiner**

Jila M. Mohandesi

**Art Unit**

3728

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.  
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) 19-23 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-18 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 19-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 21, 2005.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 5-8, 12, 13 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Stone (5,458,235) Stone '235 discloses a greeting card capable for mailing consumable products comprising: a housing capable for mailing at least one consumable product including a location for placing postage and at least one location for placing an address, said housing enclosing the product; a display area included on the housing, the display area including information; and a cover (20) hingedly connected to said housing, at least a portion of the cover being movable from a substantially closed position adjacent to the housing to a substantially open position away from the housing to display the information included in the display area. See Figure 2 embodiment.

The chewing gum recited in claim 12 is being treated as merely modifying the intended use phrase of claim 1 and, thus not requiring a chewing gum.

4. Claims 1- 8 and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Pollock (6,070,719). Pollock '719 discloses a greeting card capable for mailing consumable products comprising: a housing capable for mailing at least one consumable product including a location for placing postage and at least one location for placing an address, said housing enclosing the product; a display area included on the housing, the display area including information; and a cover (74) with a transparent window (86) hingedly connected to said housing, at least a portion of the cover being movable from a substantially closed position adjacent to the housing to a substantially open position away from the housing to display the information included in the display area. See Figure 3 embodiment.

The chewing gum recited in claim 12 is being treated as merely modifying the intended use phrase of claim 1 and, thus not requiring a chewing gum.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4, 10-11, 14 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of Stone '235 or Pollock '719.

Official notice is taken that it is old and conventional to provide an outer sleeve to packaging to better protect the packaging and its contents. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made and in

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view of the official notice to provide an outer sleeve to the packaging of either one of Stone '235 or Pollock '719 to better protect the packaging and its contents.

With respect to the material of the sleeve, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Stone '235 or Pollock '719 in view of Questel et al. (4,763,789). Each of Stone and Pollock '719 as describe above disclose all the limitations of the claims except for the specifics of the securing lids. Questel '789 discloses a mailer wherein the open ends include a first lid and a second securing lid hingedly connected to the housing, wherein the first lid is folded and secured to the housing and the second securing lid is folded and secured to a slot defined by the first lid to secure the first lid for a tighter seal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a first lid and second securing lid to the mailer of either of Stone '235 or Pollock '719 as taught by Questel '789 to better close the ends.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are greeting cards analogous to applicant's instant invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JILA M. MOHANDESI  
PRIMARY EXAMINER



Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
August 05, 2005